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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,981	08/10/1999	YUICHIRO OGAWA	104018	8747

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EXAMINER

FISCHER, JUSTIN R

ART UNIT PAPER NUMBER

1733

DATE MAILED: 10/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/370,981

Applicant(s)

OGAWA, YUICHIRO

Examiner

Justin R Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 9 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION***Election/Restrictions***

1. As noted in Paper Numbers 10, 16, and 19, it is clearly evident that the relevant claims contain separate and unique means for establishing patentability and as such, restriction is proper. Furthermore, as previously stated, the fact that a single reference might depict both embodiments (elected and non elected) does not change the general recognition that the respective inventions represent multiple species of the generic claim. In this instance, there is no disclosure of relationship between species and as such, they are independent inventions and election of one invention is mandatory. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention. It is further noted that since the claims are directed to independent inventions, restriction is proper pursuant to 35 U.S.C. 121 and it is not necessary to show a separate status in the art or separate classification. See MPEP 808.01 (a).

Thus, the requirement is still deemed proper and is therefore made FINAL. The restriction previously set forth is maintained, with claims 1, 2, 4, and 6-10 pending and claims 6-8 and 10 withdrawn from consideration. Also, as previously stated, rejoinder will be considered upon the indication of allowable subject matter depending on the basis thereof.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata (JP 6-191238, newly cited) in view of Ueyoko (US 5,885,387, of record). Shibata and Ueyoko are applied in the same manner as set forth in Paper Number 19, Paragraph 3.

As best depicted in Figures 1 and 2, Shibata is directed to a pneumatic, radial tire construction for passenger cars having a pair of rectangular bead cores 3A, 3B in each bead portion such that they are adjacent to each other in the widthwise direction. The reference also depicts a carcass structure 4 having a roundtrip return portion that (a) extends from an inside of the tire toward an outside of the tire, (b) is located through a side face of the axially innermost bead core, (c) extends from an inside of the tire toward an outside thereof, and (d) covers at least a radially innermost steel wire arrangement of said axially innermost bead core. However, the reference, in describing the carcass structure, is completely silent with respect to the use of a single, continuous cord. Ueyoko, on the other hand, describes a radial, pneumatic tire for passenger cars in which an endless carcass cord ply is employed. The use of such a carcass structure increases bead durability and contributes to the reduction of tire weight, both of which

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are desirable in all tires, wherein only the expected results would be achieved in modifying the carcass structure of Shibata in view of Ueyoko. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the carcass structure of Shibata from a single, continuous cord structure, in view of Ueyoko, as further detailed below.

With respect to claim 2, Figures 1 and 2 of Shibata depict the return end of the roundtrip return portion as being sandwiched between the respective bead cores.

Regarding claim 9, applicant requires that the roundtrip return portion of the carcass ply cord have multiple, overlapping terminal parts. Ueyoko, in describing this unique carcass design, discloses the use of a multiplicity of folding points, which is analogous to "multiple, overlapping terminal parts". The use of such a carcass design further enhances the bead durability, while promoting the weight reduction of the tire. The reference describes this turnup structure in Column 2, Line 10, saying the carcass cord ply is provided with a multiplicity of folding points arranged in the tire's circumferential direction at both outer ends of the cord ply. The turnup structure is additionally depicted in Figure 3.

Allowable Subject Matter

4. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art references of record failed to suggest a pneumatic, radial tire construction having all the limitations of claim 1 and further having

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the terminal end of the roundtrip return portion of a single, continuous carcass cord ply extend along the axially outer face of the axially outermost bead core.

Response to Arguments

5. Applicant's arguments filed August 7, 2003 have been fully considered but they are not persuasive. Applicant contends that the bead core and the carcass ply of Ueyoko are "substantially continuous" and as a result, they are made of the same material. Applicant further contends that this is in contrast to the claimed invention in which the carcass is made of a first material and the bead core is made of a second material.

It is initially noted that this argument is not commensurate in scope with the claimed invention. As currently drafted, the claim only defines a "radial carcass comprised of a rubberized ply" and "bead cores...that one or more steel wires". This language does not require the respective tire components to be formed of different materials. In any event, Ueyoko expressly states in Column 5, Lines 60-65 that the bead core and carcass can be formed of different materials in an analogous manner to the claimed invention. The language "substantially continuous" is not intended (by Ueyoko) to positively require the bead core and carcass be formed of the same material but rather to require the respective components be integrally connected.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin R Fischer whose telephone number is (703) 605-4397. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Justin Fischer

October 10, 2003


JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300